

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 867

FINAL READING

Introduced by Karpisek, 32; Howard, 9.

Read first time January 11, 2010

Committee: General Affairs

A BILL

1 FOR AN ACT relating to alcoholic liquors; to amend section
2 53-138.01, Reissue Revised Statutes of Nebraska, section
3 53-123.15, Revised Statutes Cumulative Supplement, 2008,
4 and section 53-124, Revised Statutes Supplement, 2009;
5 to provide for placement of certain shipping license
6 fees in the General Fund; to change fees for shipping
7 licenses; to harmonize provisions; and to repeal the
8 original sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-123.15, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 53-123.15 (1) No person shall order or receive alcoholic
4 liquor in this state which has been shipped directly to him or her
5 from outside this state by any person other than a holder of a
6 shipping license issued by the commission, except that a licensed
7 wholesaler may receive not more than three gallons of wine in any
8 calendar year from any person who is not a holder of a shipping
9 license.

10 (2) The commission may issue a shipping license to
11 a manufacturer. Such license shall allow the licensee to ship
12 alcoholic liquor only to a licensed wholesaler, except that a
13 licensed wholesaler may, without a shipping license and for the
14 purposes of subdivision (2) of section 53-161, receive beer in
15 this state which has been shipped from outside the state by a
16 manufacturer in accordance with the Nebraska Liquor Control Act
17 to the wholesaler, then transported by the wholesaler to another
18 state for retail distribution, and then returned by the retailer
19 to such wholesaler. A person who receives a license pursuant to
20 this subsection shall pay the fee required in subdivision (10) of
21 section 53-124. Such fee shall be collected by the commission and
22 be remitted to the State Treasurer for credit to the General Fund.

23 (3) The commission may issue a shipping license to
24 any person who deals with vintage wines, which shipping license
25 shall allow the licensee to distribute such wines to a licensed

1 wholesaler in the state. For purposes of distributing vintage
2 wines, a licensed shipper must utilize a designated wholesaler if
3 the manufacturer has a designated wholesaler. For purposes of this
4 section, vintage wine shall mean a wine verified to be ten years of
5 age or older and not available from a primary American source of
6 supply. A person who receives a license pursuant to this subsection
7 shall pay the fee required in subdivision (10) of section 53-124.
8 Such fee shall be collected by the commission and be remitted to
9 the State Treasurer for credit to the General Fund.

10 (4) The commission may issue a shipping license to any
11 person who sells and ships alcoholic liquor from another state
12 directly to a consumer in this state. A person who receives a
13 license pursuant to this subsection shall pay the fee required in
14 subdivision (11) of section 53-124. Until April 30, 2012, such fee
15 shall be collected by the commission and remitted to the State
16 Treasurer for credit to the Winery and Grape Producers Promotional
17 Fund.

18 (5) The application for a shipping license shall be
19 in such form as the commission prescribes. The application shall
20 contain all provisions the commission deems proper and necessary to
21 effectuate the purpose of any section of the act and the rules and
22 regulations of the commission that apply to manufacturers and shall
23 include, but not be limited to, provisions that the applicant, in
24 consideration of the issuance of such shipping license, agrees:

25 (a) To comply with and be bound by section 53-164.01 in

1 making and filing reports, paying taxes, penalties, and interest,
2 and keeping records;

3 (b) To permit and be subject to all of the powers granted
4 by section 53-164.01 to the commission or its duly authorized
5 employees or agents for inspection and examination of the
6 applicant's premises and records and to pay the actual expenses,
7 excluding salary, reasonably attributable to such inspections and
8 examinations made by duly authorized employees of the commission
9 if within the United States; and

10 (c) That if the applicant violates any of the provisions
11 of the application or the license, any section of the act, or
12 any of the rules and regulations of the commission that apply to
13 manufacturers, the commission may revoke or suspend such shipping
14 license for such period of time as it may determine.

15 Sec. 2. Section 53-124, Revised Statutes Supplement,
16 2009, is amended to read:

17 53-124 At the time application is made to the commission
18 for a license of any type, the applicant shall pay the fee provided
19 in this section and, if the applicant is an individual, provide the
20 applicant's social security number. The fees for annual licenses
21 finally issued by the commission shall be as follows:

22 (1) (a) For a license to manufacture alcohol and
23 spirits.....\$1,000.00;

24 (b) For a license to operate a
25 microdistillery.....\$250.00;

1 (2) For a license to manufacture beer and wine or to
2 operate a farm winery or craft brewery:

3 (a) Manufacture of beer, excluding beer produced by a
4 craft brewery:

5 (i) 1 to 100 barrel daily capacity, or any part
6 thereof.....\$100.00

7 (ii) 100 to 150 barrel daily capacity.....200.00

8 (iii) 150 to 200 barrel daily capacity.....350.00

9 (iv) 200 to 300 barrel daily capacity.....500.00

10 (v) 300 to 400 barrel daily capacity.....650.00

11 (vi) 400 to 500 barrel daily capacity.....700.00

12 (vii) 500 barrel daily capacity, or more.....800.00;

13 (b) Operation of a craft brewery.....\$250.00;

14 (c) Manufacture of wines.....\$250.00;

15 (d) Operation of a farm winery.....\$250.00.

16 For purposes of subdivision (2) (a) of this section, daily
17 capacity shall mean the average daily barrel production for the
18 previous twelve months of manufacturing operation. If no such
19 basis for comparison exists, the manufacturing licensee shall pay
20 in advance for the first year's operation a fee of five hundred
21 dollars;

22 (3) Alcoholic liquor wholesale license, for the first and
23 each additional wholesale place of business operated in this state
24 by the same licensee and wholesaling alcoholic liquor, except beer
25 and wines produced from farm wineries.....\$750.00;

1 (4) Beer wholesale license, for the first and each
2 additional wholesale place of business operated in this state by
3 the same licensee and wholesaling beer only.....\$500.00;

4 (5) For a retail license:

5 (a) Class A: Beer only except for craft breweries, for
6 consumption on the premises, the sum of one hundred dollars;

7 (b) Class B: Beer only except for craft breweries, for
8 consumption off the premises, sales in the original packages only,
9 the sum of one hundred dollars;

10 (c) Class C: Alcoholic liquor, for consumption on the
11 premises and off the premises, sales in original packages only,
12 the sum of three hundred dollars, except for farm winery,
13 microdistillery, or craft brewery sales outlets. If the applicant
14 is making application to operate a cigar bar, the initial,
15 nonrefundable application fee shall be one thousand dollars, the
16 annual fee thereafter shall be as specified in this subdivision,
17 and the application shall meet the requirements of section 53-131.
18 If a Class C license is held by a nonprofit corporation, it shall
19 be restricted to consumption on the premises only. A Class C
20 license may have a sampling designation restricting consumption on
21 the premises to sampling, but such designation shall not affect
22 sales for consumption off the premises under such license;

23 (d) Class D: Alcoholic liquor, including beer, for
24 consumption off the premises, sales in the original packages only,
25 except as provided in subsection (2) of section 53-123.04, the sum

1 of two hundred dollars, except for farm winery, microdistillery, or
2 craft brewery sales outlets; and

3 (e) Class I: Alcoholic liquor, for consumption on the
4 premises, the sum of two hundred fifty dollars, except for farm
5 winery, microdistillery, or craft brewery sales outlets.

6 All applicable license fees shall be paid by the
7 applicant or licensee directly to the city or village treasurer in
8 the case of premises located inside the corporate limits of a city
9 or village and directly to the county treasurer in the case of
10 premises located outside the corporate limits of a city or village;

11 (6) For a railroad license.....\$100.00 and \$1.00 for each
12 duplicate;

13 (7) For a boat license.....\$50.00;

14 (8) For a nonbeverage user's license:

15 Class 1.....\$5.00

16 Class 2.....25.00

17 Class 3.....50.00

18 Class 4.....100.00

19 Class 5.....250.00;

20 (9) For an airline license.....\$100.00 and \$1.00 for each
21 duplicate;

22 (10) For a shipping license, except a shipping license
23 issued pursuant to subsection (4) of section 53-123.15.....~~\$200.00;~~
24 \$1,000.00; and

25 (11) For a shipping license issued pursuant to subsection

1 (4) of section 53-123.15.....\$500.00.

2 The license year, unless otherwise provided in the
3 Nebraska Liquor Control Act, shall commence on May 1 of each
4 year and shall end on the following April 30, except that the
5 license year for a Class C license shall commence on November 1
6 of each year and shall end on the following October 31. During
7 the license year, no license shall be issued for a sum less than
8 the amount of the annual license fee as fixed in this section,
9 regardless of the time when the application for such license has
10 been made, except that (a) when there is a purchase of an existing
11 licensed business and a new license of the same class is issued or
12 (b) upon the issuance of a new license for a location which has
13 not been previously licensed, the license fee and occupation taxes
14 shall be prorated on a quarterly basis as of the date of issuance.

15 Sec. 3. Section 53-138.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 53-138.01 The State Treasurer shall credit forty dollars
18 of each state registration fee to the General Fund and the
19 remaining five dollars to the Nebraska Liquor Control Commission
20 Rule and Regulation Cash Fund to be used for providing licensees
21 with materials pursuant to section 53-117.05. All retail license
22 fees received by the city or village treasurer, as the case may
23 be, shall inure to the school fund of the district lying wholly
24 or partially within the corporate limits of such city or village.
25 ~~The~~ Except as otherwise provided in section 53-123.15, the State

1 Treasurer shall credit all license fees received by the commission
2 for licenses issued pertaining to alcoholic liquor, including beer,
3 to the temporary school fund to be used for the support of the
4 common schools as provided in Article VII, section 5, of the
5 Constitution of Nebraska. All retail license fees received by the
6 county treasurer, as provided in section 53-124, shall be credited
7 to the school fund of the county.

8 Sec. 4. Original section 53-138.01, Reissue Revised
9 Statutes of Nebraska, section 53-123.15, Revised Statutes
10 Cumulative Supplement, 2008, and section 53-124, Revised Statutes
11 Supplement, 2009, are repealed.